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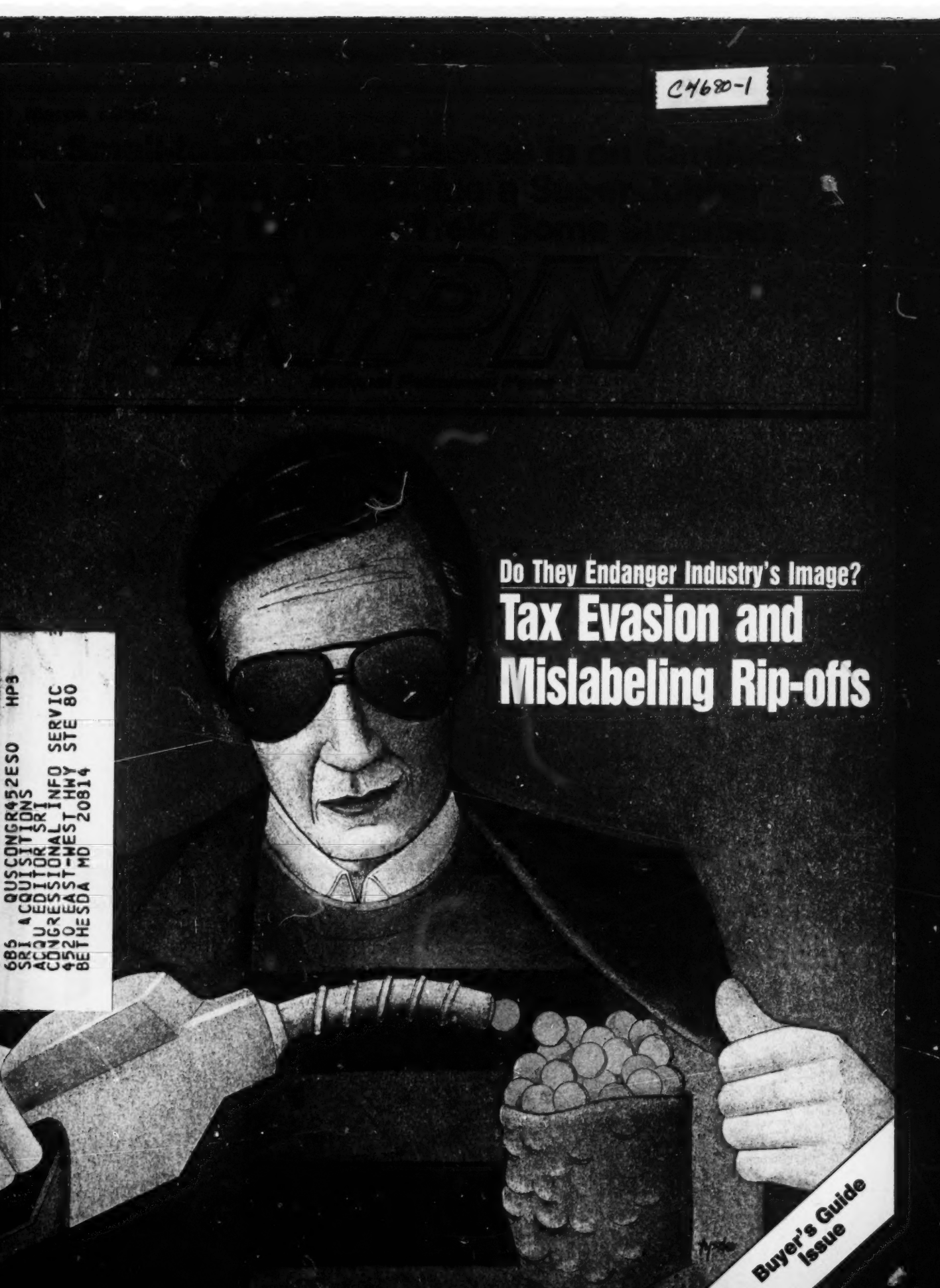

Do They Endanger Industry's Image?

# Tax Evasion and Mislabeling Rip-offs

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Buyer's Guide Issue

# NATIONAL PETROLEUM NEWS

MARCH 1985 VOL. 77 NO. 3

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It's not that serious a problem yet, but blatant tax evasion, commingling of brands and grades, bootlegging product and shortchanging octane numbers is spreading and could tarnish the industry's image. **Page 38**

**Cover art by John Tyszko, Chicago**

Pilot Oil, Knoxville's sharp private-brand marketer, exudes a positive image, starting with Jim Haslam, that's carried it to super-jobber status. **Page 46**

With little competition, southeast Colorado jobber Don Morrison provides many services, but his retail cardlock operation provides a healthy margin and a loyal customer base. **Page 51**

# • LATE NEWS

## PMPA Amendments Still Kicking Around Capitol

**Proposed amendments to the Petroleum Marketing Practices Act (PMPA) late last month sat waiting to be introduced into Congress, depending on the kind of responses two House members received from the balance of supplier companies they had written earlier.**

One of the amendments sponsors, Rep. Tom Tauke (R-Iowa) told those at the Petroleum Marketers Assn. of America winter board meeting that he and co-sponsor Rep. Mike Synar (D-Okla.) stood a good chance of introducing the amendments following reviews of majors' responses to the congressmen's letters.

By mid-February, nine of the 22 suppliers had written, saying generally they saw nothing in the marketplace that would merit changes in PMPA—a response PMAA spokesman David Morehead called "unsatisfactory." Tauke and Synar expected to have reviewed the remaining letters sometime this month.

The PMAA board also voted to push for a fund separate from so-called "superfund" money, for tank leak cleanup not covered by insurance [*NPN*—Feb. '85, p32]. While members sought to stave off application of superfund law and use of superfund money for leak cleanup, they did not resolve how to develop such a fund. PMAA earlier had expressed support for an increase in the federal excise tax, as opposed to tank registration fees supported by the American Petroleum Institute. PMAA also hoped that such a fund would contribute to tank replacement costs and act to stem the tide of rising insurance costs.

The board also discussed proposed Internal Revenue Service record-keeping rules and the possible imposition of an oil import fee to help ease Uncle Sam's budget deficit. IRS was to have required marketers to keep detailed travel logs for tax reimbursement purposes, but PMAA said that new rules will exempt vehicles used more than 75% of the time for business.

PMAA also passed a resolution opposing oil import fees, in the wake of a similar non-binding resolution by House member Silvio Conte (R-Mass).

## 18 Refineries Shut in '84, Fewer than in Previous Year

**The federal government's latest update on U.S. refinery closings says another 18 were shut down in 1984, cutting off 420,370 b/d of crude oil distillation capacity.**

Since new construction and modifications added some capacity in 1984, the net loss for the year was calculated at 360,000 b/d. At the beginning of 1985, the Energy Information Administration said there were 229 operable refineries in the U.S., compared with a total of 301 on Dec. 31, 1981, when the big slump began.

Last year's closings, however, were somewhat less severe than those during 1983. That year, the industry lost 11 refineries with a total distillation capacity of 501,350 b/d, *NPN Factbook* figures show.

Nine of the refineries shut down in 1984 were less than 10 years old, while the balance ranged from 16 years to 36 years. EIA said crude input averaged 12.1 million b/d in 1984. Refinery utilization, with a mild increase in demand and less operable capacity to handle it, rose to 76.4%.

| *Refiner* | *Location* | *Crude Distil. Capacity* |
|---|---|---|
| Caribou-Four Corners | Woods Cross, UT | 8,400 b/d |
| | Farmington, NM | 2,200 |
| Celeron Oil and Gas | Mermentau, LA | 11,000 |
| Dorchester Refining | Mt. Pleasant, TX | 26,500 |
| ECO Petroleum | Long Beach, CA | 7,000 |
| Eddy Refining | Houston, TX | 3,250 |
| Hill Petroleum | Krotz Springs, LA | 57,400 |
| Marlex Oil and Refining | Los Angeles, CA | 21,100 |
| Mid-Gulf Energy | Engleside, TX | 39,400 |
| Port Petroleum | Stonewall, LA | 3,200 |
| Powerine Oil | Santa Fe Springs, CA | 42,120 |
| Quintana Petrochemical | Corpus Christi, TX | 33,300 |
| Southern Union Refining | Lovington, NM | 36,100 |
| Tesoro Petroleum | Carrizo Springs, TX | 26,100 |
| Tonkawa Refining | Arnett, OK | 12,000 |
| Tosco | Bakersfield, CA | 38,800 |
| | Duncan, OK | 47,000 |
| Warrior Asphalt | Holt, AL | 5,500 |
| ***Total*** | | ***420,370*** |

## Phillips' War of Worth: Will the Price Be Met?

**Feelings were growing in industry and financial circles late last month that Phillips Petroleum's days as an independent entity could be numbered, especially after it essentially put a $62/share price tag on the company when it manœuvered to withstand the latest of two hostile takeover attempts since December.**

The first bid for control of Phillips came from Texas oilman T. Boone Pickens, one which cost the company $30-million in fourth-quarter profits and forced it into a recapitalization program valued at roughly $53/share [*NPN*—Feb. '85, p29].

(Pickens in mid-February raided 7.9% of Unocal stock, fanning speculation about another takeover attempt.)

But before the company even could present the plan to stockholders on Feb. 22, financier Carl Icahn submitted an $8.09-billion offer (the first of three) worth about $55/share. Phillips responded by seeking injunctive relief whose proceedings were expected to drag on into March.

Days later, however, Phillips managers let on they believed the company's stock to be worth $62/share and that directors would be willing to submit to stockholders such an offer. Meanwhile, the company revised its recapitalization plan valued at $8.05-billion, just shy of Icahn's offer.

Exposed and beleaguered, Phillips became the subject of speculation about rescues from "white knights," such as Exxon, Standard of Indiana, Atlantic Richfield, Royal Dutch/Shell, British Petroleum or other foreign interests with the money and the inclination.

With some 1.17-billion bbl. of liquid petroleum reserves, Phillips' $62/share tag equates to about $5.15 bbl.—much cheaper than drilling and in line with earlier mega-merger price factors. But with depressed oil markets, whatever deals arise won't be easily completed.

# • TRENDS

## Emasculation of DOE: No Czars for Reagan

**There was a time when it must have seemed that the Department of Energy would be a permanent nightmare for marketers.**

From humble beginnings as a sub-cabinet level agency created by President Gerald Ford in the wake of the 1973 oil embargo, it mushroomed into a full-fledged cabinet department that seemed to grow daily in size and power. The post of Energy Secretary was a high-visibility job, with plenty of prestige and air-time on the nightly news. The first energy secretary, James Schlesinger, put DOE on a par with the State and Defense Departments, in fact.

Since 1980, oil industry trends and a new executive philosophy in the White House have reversed the momentum toward a larger federal presence in the petroleum marketplace. James Edwards, the former governor of South Carolina who came to Washington for the express purpose of dismantling DOE, left without accomplishing his goal (although oil decontrol left DOE with a far less important stature).

The Reagan administration's second energy czar was Donald Hodel, a career bureaucrat from the Interior Department. In the strange pecking order in Washington, that was a clear signal that DOE no longer had been demoted to a second-rate agency, on a par with, say, Housing and Urban Development.

Late last year, DOE quietly slipped a little further, when Hodel left DOE to take over the top spot at Interior. Just a few years ago, no Energy czar would have considered going to Interior, as Hodel did. It would have been too big a demotion. By appointing White House personnel chief John Herrington to replace Hodel, the Reagan administration made it clear that if DOE can't be abolished, it *can* be ignored.

Nobody outside the White House seems much interested in DOE either. At Herrington's confirmation hearing in late January, only the incoming secretary and one other witness testified. The other witness, Robert Alvarez of the Environmental Policy Council, said he wasn't prepared to comment on Herrington's nomination, he just wanted to discuss general energy policy. For his part, Herrington promised to be "more than just a caretaker," but conceded he's going to need some on-the-job training.

Of course, there still is talk about somehow abolishing DOE. The latest wrinkle involves a merger between the Energy and Interior Departments. Under this arrangement, there would be an Energy and Interior Secretary and two second-level posts for each area.

Most congressional sources, though, don't think that will happen. For one, Congress will be too busy pursuing deficit reduction and tax reform matters to attend to nonessential cabinet reorganizing. Second, an entire network of congressional committees has been developed over the years to oversee the operation of DOE. That means scores of House members and their staffers have a vested interest in supporting, not undermining, a big DOE.

What eventually happens to DOE probably won't mean much to marketers in the short term. The only activities at DOE that really interest marketers now are the overcharge cases (which are finally winding down) and perhaps the Strategic Petroleum Reserve (which may be turned over to a private operator).

To use an old cliche, DOE is at a crossroad. Which path the department takes could have some long-term consequences for the petroleum industry. If things continue the way they're headed, DOE probably will become a repository for senior bureaucrats—a perfect job for a personnel man.

On the other hand, DOE could become a very important agency by fostering the planning and research that could prevent the economic and social upheaval that would surely accompany another "energy crisis." There is clearly a need for research, in particular.

Right now, of course, there is plenty of crude oil and product prices are far lower than anyone ever expected. But nobody believes that will always be the case. A long-term research program could help postpone the day when oil and natural gas become too scarce and too valuable to burn in automobiles and could prepare us for when that day does come.

It doesn't matter what kind of agency handles this unglamorous chore. President Reagan may be right when he argues that we don't need a cabinet level agency to oversee energy policy. The real issue is whether we need an energy policy at all. The path DOE is on today seems to leave that issue in doubt. *—Tom Goldsmith*

# • MARKETPLACE AT A GLANCE

**AVERAGE GASOLINE PRICES IN THE U.S. (¢ per gal.)**

| DECEMBER | Gasoline (All types) | Leaded Regular | Unleaded Regular | Unleaded Premium |
|---|---|---|---|---|
| U.S. City Avg. | $1.179 | $1.109 | $1.193 | $1.354 |
| Regions: | | | | |
| Northeast | 1.182 | 1.105 | 1.182 | 1.340 |
| North Central | 1.177 | 1.122 | 1.202 | 1.386 |
| South | 1.160 | 1.084 | 1.174 | 1.331 |
| West | 1.205 | 1.126 | 1.220 | 1.400 |

*Source: U.S. Dept. of Labor, Bureau of Labor Statistics.*

**STOCKS (Add 000 bbl.)**

| | 2/1/85 | 2/3/84 |
|---|---|---|
| Gasoline (total) | 233,499 | 225,425 |
| Gasoline (unleaded)* | 108,811 | 92,233 |
| Kerosine | 35,720 | 31,116 |
| Distillates | 142,821 | 117,838 |
| Residual | 47,635 | 43,317 |

**Included in gasoline total.*
*Source: American Petroleum Institute.*

# Year-End Earnings Reports Yield Suprises: Exxon, Shell, Standard (Ind.) Set Records

**Ironic as it may seem, the year 1984 wound up as the most profitable in history for three of the nation's top oil companies.**

This, despite red ink from a glut of product and weakness in prices from coast to coast. Earnings on refining and marketing operations of two of the three were flat, however.

The big winners were Exxon Corp., Standard Oil of Indiana and Shell. Their record-breaking performances almost escaped notice in the year-end summaries of the business and trade press. Except for Exxon, the companies did indicate in their preliminary announcements in early February that earnings had exceeded all past performances.

Exxon reported a 1984 net of nearly $5.53-million, Standard of Indiana reported $2.18-billion, and Shell turned in $1.77-billion.

Exxon's previous all-time high was 1980's report of $5.35-billion. The company originally had reported earnings in excess of $5-billion in 1980, 1981 and 1982, but all three years were scaled down in a restatement of the financial figures in 1982. As a result, both 1981 and 1982 dropped below $5-billion.

In addition to setting a record, this was the first time that Standard of Indiana penetrated the $2-billion/year profit mark. Its prior record was $1.92-billion in 1981.

The company's other distinction was its numbers for refining, marketing and transportation. Standard of Indiana was the only one of the top dozen oil companies to show gains for 1984 over 1983.

Shell earned $1.77-billion last year, beating its old mark of $1.70-billion set in 1980.

Exxon attributed much of its good fortune to upstream and overseas operations —notably an 11% increase in foreign crude oil liftings and the near-tripling of its earnings from worldwide chemical operations. Another reason was the restoration to income of $149-million of deferred tax provisions applicable to undistributed foreign earnings.

Domestically, Exxon said crude production profits increased $146-million in 1984, but refining and marketing operations netted only $161-million, compared with $295-million the preceding year. Gains from increased motor gasoline sales and reduced operating expenses were "more than offset" by the 1984 decline in product realization, said an

## Fourth Quarter and Full-Year Earnings

*(millions of dollars)*

| Company | 4th Qtr. 1984 | 4th Qtr. 1983 | % Chng. | Full-Yr. 1984 | Full-Yr. 1983 | % Chng. |
|---|---|---|---|---|---|---|
| Exxon | $1,[illegible]0 | $1,616.0 | (11.9) | $5,525.0 | $4,976.0 | 11.0 |
| Mobil | 286.0 | 447.0 | (36.0) | 1,270.0 | 1,503.0 | (15.5) |
| Texaco (a) | (552.0) | 256.0 | — | 306.0 | 1,233.0 | (75.2) |
| Stand. Ind. | 465.0 | 459.0 | 1.3 | 2,183.0 | 1,869.0 | 16.9 |
| Chevron | 434.0 | 403.0 | 7.7 | 1,534.0 | 1,590.0 | ( 3.5) |
| Atl. Richfield (b) | 285.0 | 419.0 | (32.0) | 367.0 | 1,348.0 | (69.4) |
| Shell | 580.8 | 549.0 | 5.8 | 1,772.0 | 1,633.0 | 8.5 |
| Gulf (c) | — | — | — | — | — | — |
| Tenneco (f) | 190.0 | 241.0 | (46.1) | 631.0 | 716.0 | (11.9) |
| Stand. Ohio | 290.0 | 324.0 | (10.5) | 1,486.0 | 1,512.0 | ( 1.6) |
| Phillips | 169.0 | 247.0 | (31.6) | 810.0 | 721.0 | 12.3 |
| Sun | 136.0 | 61.0 | 123.0 | 536.0 | 453.0 | 18.8 |
| Getty (d) | — | — | — | — | — | — |
| Union | 153.4 | 178.0 | (13.8) | 700.4 | 625.9 | 11.9 |
| Amer. Hess | (4.9) | 57.0 | — | 170.5 | 205.3 | (17.0) |
| Dia. Shamrock | 56.8 | (130.0) | — | 212.2 | (56.2) | — |
| Ashland (e) | 25.9 | 27.2 | ( 4.8) | — | — | — |
| Kerr-McGee | (35) | 17 | — | 65 | 116 | 45 |
| Pennzoil | (49.4) | 57.7 | — | 130.5 | 164.2 | (20.5) |
| Murphy | 20.9 | 19.4 | 7.7 | 96.1 | 127.4 | (24.8) |
| Amer. Petrofina | 17.3 | 23.4 | (26.1) | 45.1 | 55.3 | (18.4) |

(a) Includes 4th quarter writeoff of $765-million; (b) Includes one-time writeoff of $765-million; (c) Included in Chevron report; (d) Included in Texaco report; (e) First quarter '85, fiscal ends 9/85; (f) Corporate return which includes Tenneco Oil Co.

## Refining and Marketing Earnings

*(millions of dollars)*

| | 4th Qtr. 1984 | 4th Qtr. 1983 | % Chng. | Full Yr. 1984 | Full Yr. 1983 | % Chng. |
|---|---|---|---|---|---|---|
| Exxon | | | | | | |
| domestic | $ 22 | $165 | (86.8) | $161 | $456 | (64.7) |
| foreign | 88 | 298 | (69.9) | 192 | 674 | (71.6) |
| Mobil | | | | | | |
| domestic | (10) | 44 | — | (4) | 170 | — |
| foreign | (67) | 130 | — | 30 | 234 | (87.2) |
| Texaco | | | | | | |
| worldwide | (51) | 76 | — | (309) | (30) | — |
| Standard (Ind.) | | | | | | |
| worldwide | 9 | 42 | (78.6) | 121 | 28 | 439.2 |
| Chevron | | | | | | |
| domestic | 50 | 27 | (85.2) | (43) | (58) | — |
| foreign | 110 | 100 | 1 | 118 | 226 | (47.8) |
| Atlant. Richfld. | | | | | | |
| domestic | 89 | 167 | (58.7) | 279 | 474 | (41.1) |
| Shell | | | | | | |
| domestic | 65 | 81 | (19.8) | 223 | 238 | (6.3) |
| Standard (Ohio) | | | | | | |
| domestic | 30 | 176 | (83.0) | 200 | 453 | (55.8) |
| Phillips | | | | | | |
| domestic | NA | NA | | NA | NA | |
| Sun | | | | | | |
| domestic | 10 | 19 | (47.4) | 19 | 37 | (48.6) |
| foreign | (3) | 2 | — | 5 | 23 | (78.3) |
| Union | | | | | | |
| domestic | NA | NA | | NA | NA | |
| Amer. Hess | (50.7) | (17.1) | — | (109.6) | (65.9) | — |



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Exxon spokesman.

For its part, Standard Oil of Indiana credited its record corporatewide earnings to "improvement in all of Standard's principal lines of business." Exploration and production earnings were the result of higher volumes, while its chemicals business benefited from both higher production levels and better profit margins, the company said.

Among the top dozen companies' profits from downstream, Standard of Indiana was the only company last year to make substantial strides in year-to-year earnings. Phillips reported downstream to be "up slightly" without citing specific figures, while Chevron at least cut its losses, the companies reported.

Standard's downstream boost was "largely due to the sale of its 80% interest in Amoco Australia" last July, said a company spokesman. Unconfirmed reports at the time put the sale price at more than $50-million. The sale to BP Australia included a 45,000 b/d refinery, seven product terminals and more than 600 stations.

Even accounting for the roughly $50-million asset sale, however, Standard increased downstream earnings from oil two-and-a-half times—from 1983's $28-million to more than $70-million, excluding the Australian deal.

In addition, the company enjoyed increased profits from the sale of certain domestic assets of its chemicals operations, on top of already healthy earnings from that corner of Standard's operations.

Like Standard and Exxon, Shell also cited a near-doubling of its chemical profits as one of its high roads to success in 1984.

"Earnings benefited from increased volume in product sales and in crude oil and natural gas production," the company stated. "Additional positive factors were reduced interest expenses, greater interest income, and fourth-quarter tax provision adjustments applicable to prior years. Together, these factors more than offset the negative impacts of higher writeoffs and lower refined product margins."

*—J. Richard Shaner*

### Scoreboard for 1984's Three Record Performers:

*(In billions of dollars)*

| | Exxon | Standard (Ind.) | Shell |
|---|---|---|---|
| 1984 | $5,525 | $2,183 | $1,772 |
| 1983 | 4,978 | 1,868 | 1,633 |
| 1982 | 4,186* | 1,826 | 1,610 |
| 1981 | 4,826* | 1,928 | 1,700 |
| 1980 | 5,350* | 1,915 | 1,500 |
| 1979 | 4,925 | 1,507 | 1,125 |

*Before restatement, Exxon reported earnings of $5,650 in 1980 and $5,565 in 1981 and reduced its 1982 totals as well.

# Is Crude ROI Stemming Majors' New Investment Units?

**The shaky and fast-crumbling world crude oil price situation might be bringing some relief for private-branders and others from tough major brand street competition.**

In late January, when the Organization of Petroleum Exporting Countries (OPEC) wound up another "crisis" meeting in apparent disarray, there were indications in a few markets that certain majors had become slightly "less aggressive" with their pump prices.

In addition, according to field reports, at least one major (Texaco) has apparently cut back on capital expenditures for marketing. One distributor says he was told in December that Texaco had "frozen" further capital spending. Another said he was told by a Texaco sales manager that the company didn't have any money left for 1985 for building many of its "System 2000" units, which in 1983 helped Texaco reverse an eight-year slide in national market share.

Some sources believed the Texaco spending cutbacks, if true, were due primarily to the expenses it incurred in acquiring Getty Oil some months back. Others, however, believe that sinking crude oil prices (and, hence, revenues from production) are causing Texaco and some other major companies to take a closer look at their marketing expenses.

Whatever the reason or reasons, some field reports indicate that in a few markets, price "spreads" were beginning to appear once again between branded and unbranded pump prices in some markets.

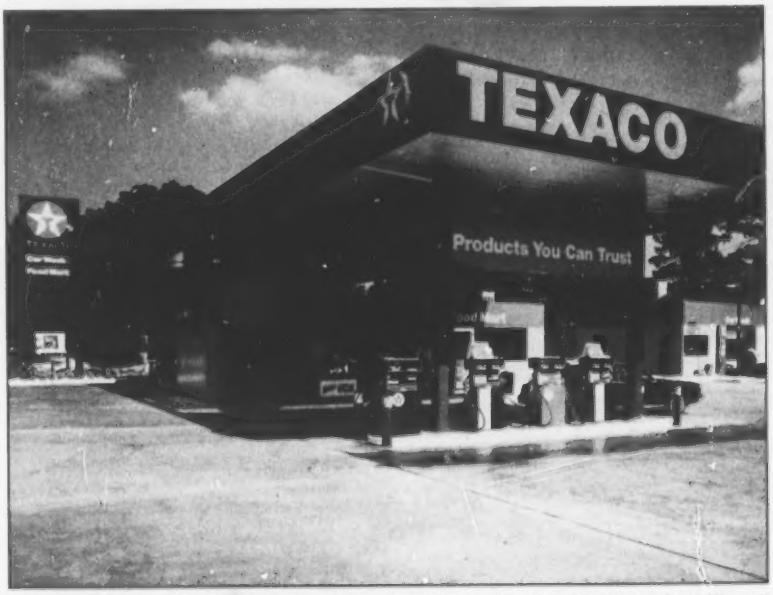
According to these reports, some major brand outlets were showing an increasing tendency to allow non-major competitors to post pump prices from 1¢ to 2¢ gal. below them. In other cases, some independents said they were noticing that some major-brand stations were becoming slower in meeting downward market moves at retail.

Almost since the end of federal controls in early 1981, says one large chain retailer, "there has been almost a knee-jerk reaction by major dealers and major company-operated stations to move within the hour to meet a lower posting. They are not reacting nearly as fast now at the company stations, and we find some dealers are willing to 'spot' us a penny or two."

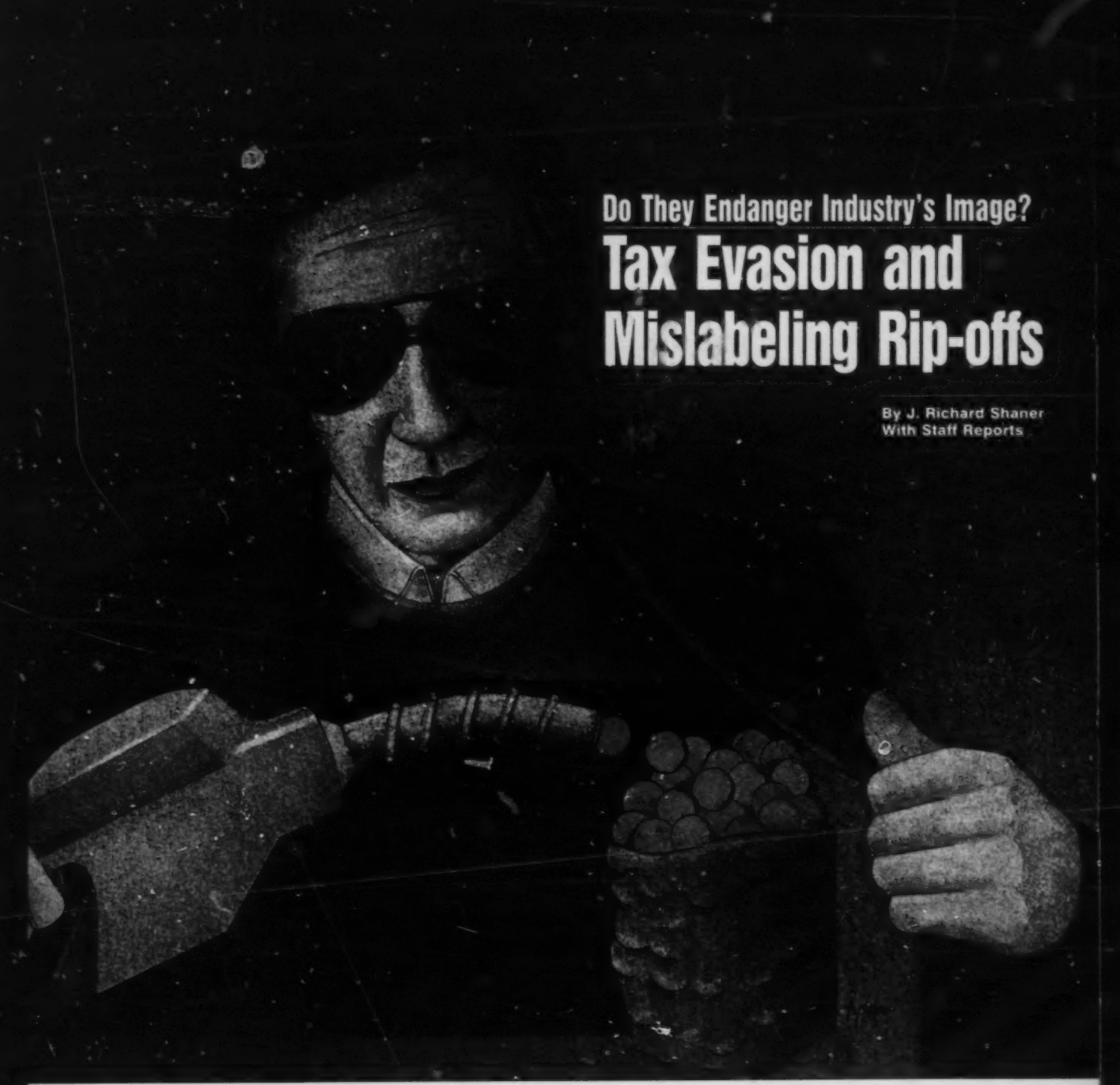
Such differentials have been noted recently particularly in the Southwest and, at times, they include company-operated retail outlets.

While some majors may be softening their stance, though, some field reports indicate that not all are.

Texaco and Mobil dealers don't seem to be "quite as aggressive" in the Southwest, says one private-brander. In the Southeast, however, another finds companies like Amoco "just as tough as ever."




**Reports say Texaco has frozen spending for expansion and System 2000 units. Are falling oil revenues forcing majors into tougher money policies and less aggressive pricing?**



## Do They Endanger Industry's Image?

# Tax Evasion and Mislabeling Rip-offs

By J. Richard Shaner
With Staff Reports

**It's not that serious a problem yet but there is concern that some unethical marketing practices could rapidly become more widespread, crucifying even legitimate marketers and perhaps damaging the entire industry's image.**

What practices?

Blatant tax evasion. Commingling of brands and grades. Bootlegging product. Shortchanging octane numbers. Misrepresenting non-taxable distillates as transportation diesel.

These shenanigans and more, say market sources, are on the increase in a few parts of the country by unscrupulous and/or desperate people out to make a fast buck at the expense of other marketers and government revenue.

In some instances, like in New York City, the alleged practices have come under the glare of the national news media spotlight. Meanwhile, marketers trying to "do right" in such areas often find they are being undersold by 5¢ to 10¢ gal. or more.

Some chiseling on taxes and the other alleged wrongdoings are nothing new to petroleum marketing. From time to time, such things have been uncovered on a small scale.

But there is concern that the present situation could quickly get out of hand, spreading across the country and perhaps leading to such things as:

—The loss of jobbers' tax collection and remittance responsibilities and, consequently, cash "float" and credit line assets such things bring.

—A deterioration of price structures, which would force more ethical marketers either to join the crowd or fold their tents.

—A crackdown by taxing authorities, which could be costly and time-consuming to even ethical marketers as books are audited and examined.

"Lord knows, it's difficult enough now for marketers to compete against each other without this sort of thing," notes Gerry Schanke, marketing director of the American Petroleum Institute. "Every ethical marketer wants to see the appropriate laws enforced and the violators ferreted out and penalized. Of even greater worry than the tax evasion cases though,



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# Lead, Octane Violations Trouble NYC, EPA and Majors

**Sporadic notices from New York City's Department of Consumer Affairs and from the U.S. Environmental Protection Agency confirm the "rotten apple in the bushel" aspect of gasoline marketing in the nation's largest city.**

In January, the consumer affairs agency announced that it had uncovered 133 violations by service stations in the selling of gasolines whose octane numbers were inferior to those posted on the pumps, (as required by law) and/or the selling of leaded gasoline as unleaded.

The interesting part of it all was that the city inspectors were not looking specifically for such violations. Their main focus was on the station's pumps, hoses and nozzles, and meter accuracy.

In like vein, EPA announced late last fall that it had issued violation notices to 24 companies in the New York City area for allegedly selling leaded gasoline as unleaded. The agency said it discovered the violations when it inspected gasolines at 204 retail stations. In all, 29 actions were taken against the 24 companies which included refiners, distributors and retailers.

EPA said it made some inspections in response to tips from people who said they had personal knowledge of instances where leaded gasoline was fed into unleaded gasoline storage tanks.

Penalties for the EPA violations are negotiable, but in the event settlements can't be reached, the cases are referred to the Justice Department. New York City penalties range up to $500 per violation, but typical fines are more like $275 to $375 for first offenses.

New York City's service station population runs somewhere between 1,800 and 2,000 units. Each, according to the city, is inspected at least once a year by a team of at least five field inspectors, depending on the conditions.

Part of the inspection is to draw samples from each pump and compare them with master specimens provided by the supplying company, usually the majors. Where the slightest variation in color or anything else makes an inspector suspicious, the sample is sent to a private testing laboratory for analysis.

The city says it found 103 cases where the octane numbers of the gasolines were inferior to the pump postings, and 33 instances where what was supposed to be unleaded gasoline had lead content far in excess of EPA regulations. EPA tolerates .05 grams/gal. in unleaded fuel and 1.10 grams/gal. in leaded fuel.

Probably the worst was that of a Bronx station which was cited twice—three weeks apart—for selling 87.2 octane gasoline when the pump face indicated it should have been 93.

The leaded violations ran as high as 2.13 grams/gal. at one station, versus an allowable of .05 grams/gal. Another pump at that same station had 1.52 grams/gal. of leaded gasoline in an .05 grams/gal. dispenser.

### Naming Names

The city pulled no punches in its violation announcements. It named names, companies and street addresses, as well as the dates of violation. Thus, where octane deficiencies were concerned, it said Amoco stations had 36 notices, with seven outlets accounting for almost half of them; Sunoco, 3; Power Test, 3; Texaco, 5; Getty, 19; Mobil, 4; Gulf, 2; Chevron, 4; and unbranded, 27.

Lead violations amounted to 23 for unbranded stations; Sunoco, 1; Power Test, 2; Getty, 1; Texaco, 2; Gulf, 1; Chevron, 3.

Spokesmen for the oil companies agreed that there are a lot of things going on in New York that are just about out of control and that "there are human errors in transportation, storage, inadvertent adulteration, etc." They all said that they keep close tabs on every station and crack down immediately where warranted. "But it's a tough, tough job," said one.

So concerned is Amoco about the quality of its unleaded gasolines in the New York City marketplace that it has put its own testing vehicle in the field to spot-check its retailers on octane numbers and any sign of lead contamination.

"We've taken more than 1,000 samples so far, and in recent months we've already sent cancellation notices to a dozen retailers suspected of selling other than Amoco gasoline via an Amoco brand dispenser," said Richard Foxx, eastern director of public and government affairs.

"We keep a very close track on our product from the rack to the individual retailer, both by batch number and continuous cross-checks," he added. "So, we know immediately when a gasoline doesn't measure up to specifications that it isn't ours."

Foxx, like other supplier spokesmen, said it was "tough" under the Petroleum Marketing Practices Act to terminate a dealer. But procedural steps are invoked swiftly to cope with any situation.

Job Gibbs, eastern marketing director, said Amoco was especially concerned because New York City had issued 36 octane number violations against its stations in 1984. "We have possibly the highest octane number in the New York market," he said, "and we're very concerned when this prestige factor is affected."

Shell is also concerned, and bought ads in metro-area newspapers promising that its stations "protected" motorists against bootleg gasoline [See page 42].

A few major companies have remained untouched in the investigation, and a spokesman for the city said it was "a fair and correct assumption" that no fuel adulteration violations had been found at those suppliers' stations.

are those involving adulteration of gasoline. This could cause a loss of public confidence in a product that the industry has always been very meticulous about."

### The Hot Spots

Except for the misrepresenting of diesel fuel for tax evasion purposes, which reports indicate can occur almost anywhere, there are just a few hot spots of concern at present.

These are the metropolitan New York area, parts of Florida, southern California and the Chicago area. In addition, there are certain "border zone" cities and towns along some state lines that traditionally have had "problems."

In these areas, according to local marketers and taxing authorities, some fast-buck artists could be evading hundreds of millions of dollars in taxes. Some sources put annual tax losses in some states as high as $500-million. In addition, according to allegations in New York, motorists there in many cases may be paying for higher quality gasoline than is being pumped into their tanks.

There are even reports that the Mafia may be involved in some of the alleged illegal practices in Florida and New York.

New York City, by far, is considered to have the worst problem at present and it is the area currently getting the most general media attention.

But in Florida, where state tax officials have estimated that losses from petroleum products tax evasion could range anywhere from $15-million to $200-million a year, a multi-pronged investigation is underway. Industry officials, who tipped off the state that some evasion might be occurring, believe a lower figure is more accurate.

Florida Petroleum Marketers Assn. (FPMA) exec Carl Adams recently sought and obtained Florida television time to rebut the station's earlier allegations that the state was losing from $40-million to $20-million from a tax collection system that "invites dishonesty." Adams contended the system is fine, so long as its laws are enforced. He says actual tax losses were about $8-million before the system caught up with "members of or-

ganized crime."

Charges are heard that evasion of state sales taxes (not federal and state excise taxes) also has been growing in southern California. Paul T. Erdos, executive director of the Serve Yourself & Multiple Pump Assn., (SYMPA) believes the state is losing as much as $200-million annually.

Chicago, which has had problems in the past with allegations of both tax evasion and misrepresentation of product, may have opened the door once more for such activity by imposing a 7¢ gal. tax on leaded gasoline sales last Jan. 1. [See story on page 22.]

**Amoco's inspection van prowls New York, making spot quality checks on its dealers.**

Other than these large markets, sources believe the biggest tax evasion problems at present involve diesel fuel. A number of marketers around the country say they often suspect that their competition, via various maneuvers, classify diesel fuel which they sell to commercial or similar end-user customers as farm diesel or home heating oil.

The "diesel switching" problem is becoming one of increasing concern, says Phil Chisholm, executive vice president of the Petroleum Marketers Assn. of America. He says it's causing more discussion of perhaps using a dye in home heating oil to help at least partially correct the situation.

## Florida Investigations

According to several sources, the most elaborate and sophisticated tax cheating and product misrepresentation is going on in metropolitan New York. Some say, however, that an example of what's happening now in the Big Apple began earlier in Florida, and that there is an organized crime connection with both the Florida and New York activity [*NPN*—Feb. '85, p20].

Florida's Department of Law Enforcement has been looking into tax evasion allegations since August 1983, when it was first tipped off by FPMA about such possible activity.

This tip led to the audit of one firm which, in turn, led to audits of a half dozen more and the filing of jeopardy assessments against them and others. At least three persons had been arrested for alleged tax evasion wrongdoing in Florida by mid-January. In addition, the state is in the process of re-auditing the returns of more than 400 licensed petroleum distributors. The state authorities concede that only a handful appear to be involved in a "scam" which apparently got underway two years ago.

"I don't want to sound like 'The Godfather,' but this is organized crime," testified Commissioner Robert Dempsey of Florida's Department of Law Enforcement at a state house subcommittee hearing. "We have definitely traced it to the Colombo family operating in New York and New Jersey. They had this well worked out before they got to Florida. We were fortunate that we got to it early."

In fact, one of the key men in the greater New York violations was also a principal in the Florida gambit. He is now being held in protective custody by federal authorities in New York in exchange for cooperating with investigators.

Dempsey said one of the principals was a man named Lawrence Iorizzo, who previously had been convicted in New York state of defrauding $1.1-million up there. Iorizzo is the man being held in protective custody by federal officials in New York and allegedly is one of the gangland links.

In Florida, wholesalers collect the federal and state taxes on a first-sale basis. The suspect companies, it was alleged, under-reported sales or falsified reports or simply pocketed the money, closed shop and disappeared. FPMA's Carl Adams says "there is evidence that no more than five or six companies are involved . . . Most of these are Panamian corporations apparently set up by out-of-staters for the purpose of tax evasion."

Adams said the unfortunate part of it was that ethical distributors and retailers were being smeared unjustifiably by the actions of the evaders. He noted that Florida's laws were very tough, but "when organized criminals set out to break the law, they usually succeed to some degree before the legal system can stop them." The net effect of the negative publicity, however, is that it might "make all of us look like a bunch of thieves," he was quoted as saying.

State tax officials said they are planning to strengthen the penalty provisions of current laws, restructure the licensing procedures, increase the statutory maximums for required bonds and institute a new policy that no licenses will be granted until an on-site inspection verifies storage capabilities and businesslike operations.

They and industry officials are hopeful that the current mess can be cleaned up before the year is out.

## The Big Apple Mess

There are indications that metropolitan New York may have far greater problems of both tax evasion and product misrepresentation than Florida has.

A number of distributors and retailers have been arrested in the metropolitan New York area so far. The most recent one was a Long Island marketer who was indicted by a federal grand jury in Brooklyn in January for evasion of $750,000 in gasoline taxes—the federal government's 9¢ worth. This was the first time that any marketer has been nailed on a federal evasion charge, even though there have been allegations that the bootlegging network has been guilty of that too.

Last summer, one Long Island retailer was accused of ducking $600,000 worth of taxes, of defaulting in the payment of 70 tankloads of gasoline from New Jersey suppliers, of closing his 14 stations when things got hot, and of selling out his product to all comers at half price.

Another allegedly evaded payment of $1.1-million in taxes on 1.3-million gal. of gasoline in June 1983 and 4.3-million gal. the following month.

Shortly before Christmas, New York State held a widely publicized press conference at which the state tax commission announced that it had moved on 18 distributors accused of evading taxes, had sent out tax bills to 17 distributors totaling more than $33-million, and had referred

the files on 18 distributors to the state attorney general for possible prosecution on evasion, falsified reports and fraud charges [*NPN*—Feb. '85, p20]. No names were released nor was it made clear whether there were more than 50 distributors involved or merely 18 or so at this time. The tax commission said it also was moving to vacate the distributor licenses of 161 motor fuel distributors that appeared to be inactive or dummy corporations in 1984.

No one knows how many casualties there have been in the metropolitan New York marketplace so far—how many legitimate distributors and retailers have been forced out of business either by the economics or their unwillingness to go along with a dirty side of gasoline marketing.

But industry people say a lot of ethical marketers are being hurt badly, and with excesses of gasoline and diesel fuel all over the place, the year 1985 could bring many of them to their knees.

One Long Island retailer, for example, said he tried to compete without buying bootlegged product and "I lost $7,000 in one month . . . I couldn't compete with the guy next door unless I got some myself." Another said he got 100,000 gal./month from his supplier and 30,600 gal./month from a bootlegger. "I was losing 5¢ on the major product but making 8¢ on the bootleg stuff, so I was coming out about even," he was quoted as saying.

It's not only the little guys that are hurting, either.

Leo Liebowitz, president of Power Test Corp. (which recently won federal approval to buy the Getty East Coast marketing chain from Texaco), said he did not have as good of a year in 1984 as he should have. He blamed virtually all of the profit decrease on marketplace losses reflecting competition from the bootleg gasoline business.

Similarly, Northville Industries Corp., one of the biggest terminals on Long Island, is feeling the pressure too. Specifically, a company executive said Northville and two other terminals used to do about 400,000 gal. month of gasoline. "I'll bet we're not doing more than 50,000 gal. monthly now among the three of us," he said.

A spokesman for one of the larger oil companies said privately that "if we really cracked down on commingling, we'd lose half of our outlets on Long Island."

Amoco is so concerned about its reputation and octane prestige that it has its own inspection van prowling the New York streets and spot-checking stations for inferior product. A spokesman said a dozen contracts have been terminated in recent months alone.

For example, New York City said it churned up 133 violations in 1984 in the misrepresentation (short-changing) of octane levels and the selling of leaded gasoline for unleaded gasoline—even though it wasn't specifically looking for these activities. [See related story on page 39.]

The Environmental Protection Agency said it found 29 cases of stations selling leaded gasoline as unleaded in New York City last fall.

There are national implications too.

An EPA attorney, for example, said that in fiscal 1984, which ended last Sept. 30, the agency issued about 550 citations against distributors and service stations for allegedly illegal gasoline sales. About half, he said, were for contamination or adulteration of product.

The contamination, he said, could have been the result of sloppy handling procedures or inadvertent loadings. But some were for selling leaded gasoline as unleaded, pure and simple.

In the last three months of 1984, about 100 or so additional citations were issued, "So, it looks like we'll have about the same number this year," said the attorney. EPA monitors about 10,000 stations per year, out of the 130,000 to 140,000 in business, looking not only for contamination but also fuel switching, adulteration, nozzle aberrations and fill tank entrances.

## State Motor Fuel Taxes

*(¢ per gal., as of 1/1/85)*

| | GASOLINE | DIESEL | GASOHOL | ADDED TAX (Percent) | LOCAL OPTION |
|---|---|---|---|---|---|
| Alabama | 13¢ | 14¢ | 10¢ | | L |
| Alaska | 8 | 8 | 0 | | |
| Arizona | 13 | 13 | 13 | | |
| Arkansas | 9.5 | 10.5 | 0 | 4 | |
| California | 9 | 9 | 9 | 4.75 | L |
| Colorado | 12 | 13 | 7 | | |
| Connecticut | 15 | 15 | 14 | 2 | |
| Delaware | 11 | 11 | 11 | | |
| D.C. | *15.5 | 15.5 | 15.5 | | |
| Florida | * 9.7 | 9.7 | 5.7 | | L |
| Georgia | 7.5 | 7.5 | 7.5 | 3 | |
| Hawaii | 8.5 | 8.5 | 8.5 | 4 | L |
| Idaho | 14.5 | 14.5 | 10.5 | | |
| Illinois | 12 | 14.5 | 12 | 6(a) | L |
| Indiana | *11.1 | 11.1 | 11.1 | 5 | |
| Iowa | 13 | 15.5 | 11 | | |
| Kansas | 11 | 13 | 6 | | |
| Kentucky | *10 | 10 | 6.5 | | |
| Louisiana | 16 | 16 | 0 | | |
| Maine | 14 | 14 | 14 | | |
| Maryland | *13.5 | 13.5 | 10.5 | | |
| Massachusetts | *11 | 11 | 11 | | |
| Michigan | *15 | 15 | 11 | 4 | |
| Minnesota | 17 | 17 | 15 | | |
| Mississippi | 9 | 10 | 9 | 6 | L |
| Missouri | 7 | 7 | 7 | | |
| Montana | 15 | 17 | 8 | | |
| Nebraska | *14.7 | 14.7 | 9.9 | | |
| Nevada | 12 | 12 | 11 | | L |
| New Hampshire | 14 | 14 | 14 | | |
| New Jersey | 8 | 8 | 8 | | |
| New Mexico | *11 | 11 | 0 | | |
| New York | 8 | 10 | 8 | 6.75 | L |
| N. Carolina | 12.25 | 12.25 | 7.25 | | |
| N. Dakota | 13 | 13 | 8 | | |
| Ohio | *12 | 12 | 8.5 | | |
| Oklahoma | 9 | 9 | 9 | | |
| Oregon | 9 | 9 | 9 | | L |
| Pennsylvania | 12 | 12 | 12 | 6 | |
| Rhode Island | *13 | 13 | 13 | 1 | |
| S. Caroline | 13 | 13 | 13 | | |
| S. Dakota | 13 | 13 | 9 | | L |
| Tennessee | 10 | 13 | 6 | | L |
| Texas | 10 | 10 | 0 | | |
| Utah | 14 | 14 | 14 | | |
| Vermont | 13 | 14 | 13 | | |
| Virginia | *13.63 | 13.63 | 5.63 | | L |
| Washington | 18 | 18 | 16.2 | | |
| W. Virginia | *15.35 | 15.35 | 15.35 | | |
| Wisconsin | 16 | 16 | 16 | | |
| Wyoming | 8 | 8 | 8 | | |

*Variable tax expressed in cents per gallon.
(a) Chicago levied 7¢ gal loaded gasoline tax on 1/1/85.
Source: National Highway Users Federation.

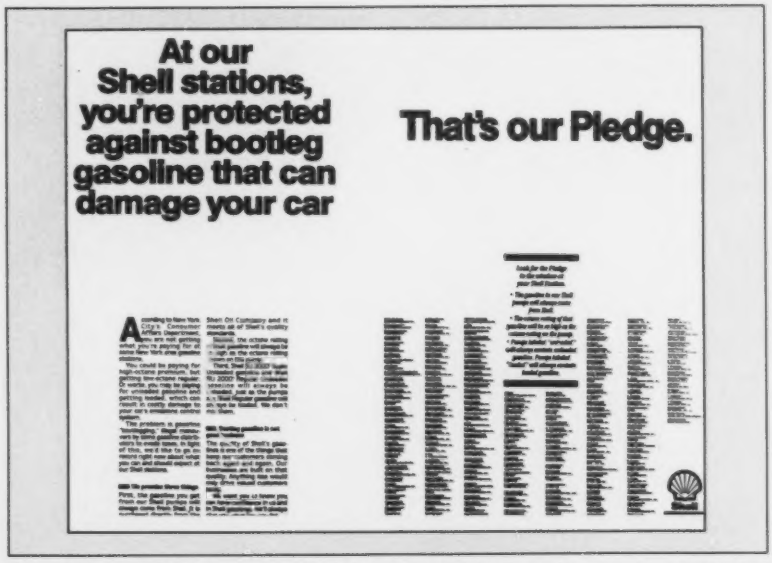
"We regard any violation as serious," he said, "but we do not regard the problems of contamination and adulteration as pervasive right now. It's only about 1% nationally compared with New York's 6%."

Most of New York's agonies are in the metropolitan New York City area, from the Hudson river separating it from northern New Jersey to Montauk Point, at the tip of Long Island 130 miles to the east. Similarly, Florida's headaches are in the southern part of the state, Illinois's are primarily in Cook County and Chicago, and California's in metropolitan Los Angeles.

An industry summary noted that the "theft profit" in bootlegged gasoline was $2,400 for a 10,000 gal. tank truck or $24,000 for a 100,000 gal. transaction in terminal, barge or pipeline.

Industry spokesmen said 90% of the illicit gasoline came in through the Port of New York. The balance came across the borders, some from New Jersey, where the state tax was only 8¢ gal., and some from Canada.

It was believed most of the gasoline coming in to New York harbor was from overseas tankers, thus making the tracing all the more difficult. An incredible situation was that the Coast Guard had complete records on all ships and cargos but was not allowed to reveal them because of congressionally mandated "right of privacy" laws. State and industry officials still are trying to get some sort of an agreement worked out so that this information would be available not only for the reported cargoes but for all dockings and transfers for tax purposes only.




**When New York City's Department of Consumer Affairs issued a report on motor fuel adulteration, Shell bought $500,000 worth of newspaper ads promising only 'Shell-quality' gasolines, accurate and reliable octane ratings, and the right products in the right pumps.**

## Empire State Shuffle

New York's problem dates back basically to September 1982, when the state, in some hastily improvised laws, shifted the gasoline tax collection burden from the backs of 10,000 retailers to the 400 or so distributors in the state. The theory was that with fewer tax collectors involved, the opportunities to cheat would be minimized and controllable.

The loophole, however, was that the gasoline taxes would not be collected until the last distributor moved it into retail or consumer use. This opened the door to a variety of companies—the list of distributors grew rapidly to more than 600—to engage in "daisy chain" sales among themselves. Somewhere along the line, the gasoline would be marked "all taxes paid" and moved into the marketplaces. New York's gasoline taxes are around 20¢ gal., so this represented a substantial killing for the bootleggers. (New York's taxes include 8¢ gal. excise, plus state and local sales taxes, plus a gross receipts tax, plus a 1¢ gal. leaded fuel tax in New York City only.)

Some industry people noted that gasoline imports increased significantly in 1984, most of them through New York harbor [*NPN*—Feb. '85, p36]. The American Petroleum Institute, on several occasions, noted that even these figures may not be telling the full story because of reporting and classification difficulties for gasoline and blending components. API said its surveys could be missing from 30,000 b/d to 50,000 b/d as a result. Some in the industry wonder whether similar unreported foreign gasoline was moving clandestinely into the metropolitan marketplace, bypassing not only the state but also the federal government's 9¢ gal. tax.

Once the gasoline was terminaled, however, and moved out via the daisy chains (often only the paper, not the product, changed hands), the paper trail was so tangled that state auditors needed months to trace shipments, often finding that an intermediate company had gone out of business in the interim, breaking the connection.

Participating retailers usually got an "all taxes paid" receipt for the product. The bootlegger would get 10¢ to 13¢, the retailer would end up 7¢ to 10¢ below the market. He usually pocketed most of that and low-balled the streets to move the gallonage.

The situation in the metropolitan area became so bizarre that a CBS nightly news program devoted three special TV reports to the bootlegging. It stressed, among other things, that the blatant commingling of gasolines and the selling of sub-par octanes and adulterated fuels were cheating consumers and jeopardizing their automobiles.

In November 1983, New York Governor Mario Cuomo appointed an industry/government task force to come up with legislative proposals to resolve the situation. [See Sam Borenkind's legal column on page 115.]

It made an interim report last fall and a final report two months ago in which it called for felony penalties, and jail terms and stiff fines against both corporations and individuals convicted of tax evasion and bootlegging. It also proposed that federal and state taxes be paid by the first distributor in the state, or the first importer.

Some distributors, and especially the Empire State Petroleum Assn., instead urged that the taxes be levied against the second distributors so that state inventories would not be jeopardized and that distributors would not be forced to prepay taxes that they might not be able to collect themselves for some time. There also was a question of "float" money.

ESPA renamed its approach a "Combined Audit Proposal" in late January and lobbied vigorously for its adoption, claiming it would correct situations that would not be caught by the master plan. The rest of group supported the first distributor plan, however.

State tax officials and the Governor are anxious to clean up the very messy situation, and corrective legislation is expected this year. State tax officials said they can document evasion losses in excess of $90-million, while industry officials say the total for 1984 more likely is over $200-million.

## West Coast Problems

There's one thing that industry and state tax officials agree on in California—a good number of service station operators are not paying the sales tax, which ranges from 6% to 6.5%. There are all sorts of

guessing games as to how much this is costing the state in lost revenues. One estimate—the high one—is $200-million.

California has no particular problems with the federal and state gasoline taxes, which are 9¢ gal. each for a total of 18¢. But the sales taxes are something else again.

Paul T. Erdos of SYMPA, which is lobbying for all it's worth in favor of a proposal in the legislature to shift tax-collection responsibilities from retailers to refiners, sums it up this way:

"The tax evasion is unbelievable. There are 15,000 service stations in the state, and to catch the thieves is a problem because of the lack of personnel [in the state offices] to audit them.

"It is known that many marketers buy indie 'gas' from four or five suppliers a month. They may account for only one of them in their filings. The rest they just ignore."

Erdos said there were "800 different ways to evade taxes in California . . . but if you get caught, it's a felony."

Nevertheless, he added, "you can see some marketers with 8¢, 9¢ and 10¢ gal. advantages over the market and law-abiding dealers. You'll even see some of them selling product for as much as 4¢ gal. under what cannot help but be cost."

An authority at the California Board of Equalization, who agreed to comment provided his identity was shielded, responded:

"We're not sure of the volume, but we're aware that some service stations are not paying the full amount of sales taxes.

"We've also been contacted by retailers and refiners. Folks within the retail end are very concerned about unfair competition."

In a running commentary, the state authority said he personally agreed with the idea that prepayment by refiners would pretty well solve the problem of tax evasion. He seemed to feel that the legislature is inclined to think in that direction too.

"We have increased our audit activities and have uncovered the largest amounts, in terms of the absolute potential dollar losses, in the Los Angeles area. But we've also found some problems in the Sacramento area with operators staying in business for only short periods of time. That makes it difficult to get on top of them.

"With our expanded audit procedure, we're tying back purchases to suppliers. The paper chain makes it non-attractive (for retailers) to throw away records as many say they do. The problem is, basically, who are they buying from?

"Our first indication that there was something wrong came as a result of some of our audits. We became aware that there was no indication of certain suppliers in records given to us by service station operators when the suppliers told us they had sold product to them. The 6% sales tax equals about 7¢ gal., based on a $1.20 gal. street price. The 9¢ gal. state tax is paid at the distributor level.

"In three or four audits in one small area, however, we figured there was over $1-million in lost taxes and the amount was increasing continually."

State officials are meeting regularly with industry—suppliers, distributors and retailers alike—to figure out procedures to stop the evasions. Proposals to do so are now being considered by the current legislature.

An offshoot of California's low tax rate is some bootlegging across the border into Nevada. Said one Nevada official who, like the California official, did not want to be identified:

"We know it's happening, but not on a scale large enough to provide funds to investigate further. We have the highest excise tax rate of the surrounding states —12¢ gal. A lot of people are taking trucks across the border, paying the California tax and bringing the product back to Nevada. A lot probably winds up in Las Vegas where the taxes are 17¢ gal., or Reno, 16¢."

For the moment, however, "there's no manpower to investigate the problem, and if it could be investigated, there's a question as to whether the money saved would be worth it."

## Chicago Again?

Chicago, which used to be the hotbed of gasoline tax evasion problems in Illinois, seems to be sitting on the edge of another volcano with the imposition of a 7¢ gal. tax on leaded gasoline sales effective last Jan. 1.

The idea behind it was to curb the sale and consumption of leaded gasoline in the city. While it's too early to evaluate the impact, there are those who fear that it certainly is a dazzling tidbit to dangle before interested bootleggers.

The ordinance requires retailers to remit the special tax either through their distributors or on their own. That's quite a doorway for evasion-minded operators.

Chicago's gasoline taxes are the highest in the country: federal, 9¢ gal.; state, 12¢; Cook County, 4¢; sales, 8¢—for a total of 33¢. For those buying leaded gasoline, add another 7¢ for a total of 40¢ gal. Elsewhere in Cook County, taxes are about 1¢ under Chicago, and the surrounding counties are 6¢ below. There have been reports that substantial volumes of Chicago's consumption represent either bootlegged gasoline or gallons purchased across the county line to escape the higher taxes in the city and county.

For the most part, however, Illinois appears to have taken the lead in the fight against gasoline tax frauds. The state's prepaid motor fuel sales tax, now in effect for about two years, not only has been effective but has provided a paper trail that's easy to follow. Prior to enactment of the prepaid sales tax law, Illinois was losing a bundle on unreported sales.

"With Illinois being the highest state around, everybody was taking shots at us," said Bill Deutsch, executive director of the Illinois Petroleum Marketers Assn. "It was tough to compete when someone could take off 3¢, 4¢ or even 5¢ by ducking sales taxes."

Don Woodrick of the Midwest Petroleum Marketers Assn. said his members were taking beatings on the streets in and around Chicago because of the high taxes. "It didn't matter who a dealer might be buying from," said Woodrick. "If the dealer wanted to shave some of his gallonage on his sales tax remittance, he knew there was little chance he'd get caught. Even if he was nailed, some dealers just closed shop and opened another place across town."

Woodrick said the incidence of tax cheating snowballed in Illinois until the prepaid sales tax bill went into effect in mid-1983. How much had the state been losing? The estimates vary from a low of $25-million to a high of $50-million a year.

Michigan, which used to have a troublesome tax evasion problem, enacted a prepaid tax law modeled after Illinois' in January 1984. Michigan tax officials said the new law brought in an additional $1-million in the first four months of 1984 alone from sales in southeastern Michigan, the Detroit area. "And that's not related to any volume increase or price change," a spokesman said.

Stated in reverse, could it have been an indication of the dimensions of the tax evasion problems there?

## Border Zone Problems

While the big cities like New York and Los Angeles may have problems on a large scale, marketers in smaller markets often at least suspect some of their competition of tax evasion to get a price advantage on them.

Such suspicions often are raised involving diesel fuel sales to commercial accounts and other end-users on which both the federal tax of 15¢ gal. and state and local taxes are supposed to be collected and remitted to the taxing authorities.

An example of what happens, says a Tennessee marketer, once occurred when he attempted to "get a piece of diesel business" at 0.5¢ gal. over his cost plus freight. He lost it to a competitor who underbid him 5¢ gal. "The only way he could have bid that low was to have shown that diesel as farm diesel when he paid his taxes," says this marketer.

Border towns and cities along state lines have traditionally had so-called "bootlegging" problems, with some marketers based in low-tax states prone to ship product into others with higher tax rates.

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A marketer in doing this would not necessarily violate either state's tax laws, points out a marketer, but he would certainly have a price advantage over his competition in the high-tax state.

Texas taxing authorities say they have had problems in the past with low-priced diesel coming in illegally from Mexico, with some such importers at times not bothering to pay taxes.

Arkansas solved a touchy tax differential problem by setting up border zones wherein its taxes were held to a maximum of 1¢ gal. over adjacent states.

### Stricter Enforcement Urged

PMAA recently has been lobbying in Washington for stricter enforcement of federal tax laws in hopes of curtailing some of the tax cheating, says exec Chisholm.

"We believe that 98% of our people are trying to do the right thing, but they are at a real disadvantage because of what no more than perhaps 2% are doing," he says.

PMAA has "visited" with federal agencies, including the Internal Revenue Service, about the tax evasion problems, says Chisholm. "We consider them very serious, and they could get worse as taxes increase," he says.

The Society of Independent Gasoline Marketers of America (SIGMA) is concerned that present tax evasion allegations could lead to laws which would require the collection and remittance of taxes by refiners rather than distributors, says a spokesman. PMAA is also concerned that such a thing could come to pass.

This would hurt jobbers who now profit from the "float time" involved in such collections. The tax money also helps improve their credit lines.

As one marketer explains, a 400,000-gal./month jobber collects approximately $80,000 in taxes if he operates in a state where total taxes amount to 20¢ gal. If his gallonage remains constant month after month, and he remits the tax collections at 15 to 30 day intervals, he improves his "credit line" with his supplier by that amount. In addition, he makes interest money off the tax money while it remains in his hands.

Most ethical jobbers say they don't wish to lose this nor do they wish to see unethical ones strip their hides off in the marketplace with low selling prices gained via illegal means.

There has been a tendency by many marketers in the past to "not squeal" on competitors they suspect of tax evasion or other wrongdoing. This could change, however, if the problems of New York, Florida and elsewhere spread and become greater. Some sources fear this is exactly what will happen unless the situations in those areas are quickly brought under control. NPN